THE HON'BLE SRI JUSTICE GODA RAGHURAM

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WRIT PETITION NO : 8452 of 2006

DATED: 26.04.2006

BETWEEN:

Chinthanippu Narasaiah and others .. Petitioners

And

The Government of A.P. Rep.by its Secretary

And others

..Respondents

THE HON'BLE SRI JUSTICE GODA RAGHURAM

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WRIT PETITION NO :8452 of 2006

ORDER:

The petitioners claim to be the owners of various extent of lands in Survey Nos.521, 525/A, 526, 527, 528, 310/A, 311/A, 312, 313 and 520 respectively situated at Musalimadugu Village, Wyra Mandal, Khammam District.

Earlier a notice dated 18.10.2005 was issued to the petitioners by the Mandal Revenue Officer, Wyra, calling upon them to give consent letters for providing house sites to the victims of the flood flow on account of the Wyra project. This notice issued by the Mandal Revenue Officer was challenged in W.P.No.27286 of 2005 by some other petitioners. By the Order dated 27.12.2005, the writ petition was disposed of recording the statement made (on behalf of the respondents therein) by the learned Assistant Government Pleader for Revenue (Land Acquisition) that a preliminary survey was conducted and all the owners of the lands like the petitioners were being requested to give consent for the acquisition and if the petitioners are unwilling to give consent, proceedings under land acquisition would be initiated. Thereafter, a notification under Section 4(1) of the Land Acquisition Act, 1894 (for short ' the Act') was issued on 17.4.2006 dispensing with the enquiry under Section 5 A of the Act by invoking urgency clause in Section 17(4) of the Act.

The singular grievance of the petitioner is that dispensing of the enquiry under Section 5A of the Act is an irrational exercise of power as the acquisition of the petitioners' land for house sites is pending since the earlier intent to acquire after obtaining consent and therefore, there was no urgency that justifies for dispensing with the enquiry under Section 5(a) of the Act.

Heard the learned counsel for the petitioner and the learned Government Pleader for Land Acquisition.

Clearly the acquisition is for providing house sites for certain persons effected by flood flow on account of the Wyra project. At least from 18.10.2005 and earlier, the respondents are intent on acquiring the lands. The petitioners have been issued notice seeking their willingness and consent for acquisition.

In the circumstances, this Court discerns no justification for dispensing with the enquiry under Section 5 A of the Act. The enquiry under Section 5 A is a valuable right afforded to legislatively persons whose lands are proposed to be acquired.

On the analysis above, the respondents are directed to issue notice to the

petitioners calling upon them to submit their objections under Section 5 A of the Act. On receipt of such objections, the same shall be considered and appropriate recommendations shall made to the State after considering the objections and dealing with them duly recording reasons.

The writ petition is disposed of with the above directions. No costs.

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26-04-2006

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